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Commissioner for Patents
Washington, D.C. 20231

Re: Method for Session Play Gambling Games
       Application Control Number: 10/719,344
       Examiner: Thomas, Eric M.; Art Unit 3714
       Reply to Office Action mailed 12/01/2008

Dear Examiner:

This answer is respectfully submitted is in response to the office action mailed 12/01/2008.

Please note Applicant is *pro se* and if necessary requests examiners help with claims writing pursuant to

MPEP 707.07(j).

Applicant thanks Examiner for clearly expressing his views. Applicant believes this response

distinctly identifies key points of the present invention now clearly patentable over Englman alone or in

combination.

Englman (U.S. 2003/0157978) is the primary reference cited. However, Applicant has

anticipated Englman with respect to relevant matter. Applicant has priority to at least the first filing date

of March 13, 2001 (provisional to Applicant's S/N 10/095,795 incorporated by reference).

Response to Detailed Action ~102 Rejections

Claims 1 - 3, 7, 14 - 16, 18 -21, and 27

General Response

In the current office action pages 3 - 4 and elsewhere Examiner takes a position that losing games comprise termination events, and since these termination events already exist that Applicant is not entitled to patent. Examiner goes to greater lengths to assert that since symbols usually decide a loser, common symbols themselves comprise termination events equivalent to that taught by Applicant. Respectfully, neither of those views holds up with regards to the present invention.

Applicant does not argue that losing on a common slot machine terminates play.

Applicant does not argue that losing usually terminates a game segment based on a winning streak.

Applicant does not argue that there are gaming devices that sell a fixed number of plays in advance with one wager.

Applicant does not argue that free spins or free plays already exist.

Applicant does not argue that gaming devices already offer secondary games, commonly called second-screen bonus games.

All of these are well known in the art. (See Background of the Invention.)

Nonetheless, and as will be shown, Applicant's new game methods are entirely new and entitled to patent.

Examiner attempts to make a base game loss under Englman equivalent to a termination event under Taylor (office action pg. 3, line 22). This is unsupported and too far of a stretch, because (1) this is contrary to Taylor's teaching that base games played (won or lost) do not normally comprise a termination event. Only predetermined events can comprise termination in the present invention, and in most embodiments losers do not qualify. (2) Secondly making Englman's losses equivalent to termination events under Taylor doesn't make any sense, because what is terminated under Taylor is not one of the *games remaining* at all. Taylor maintains a LIVES remaining indicator and not a number of *games remaining* meter. (In claims language these LIVES may be called a "minimum number of game winning opportunities".) Not only are the two completely different things, they behave in completely different ways. Lives remaining are not directly correlated to games remaining. You can play and lose >10 games in a row yet never lose a life. (3) Thirdly an expired game played under Englman is a negative event while under Taylor it is a positive event, because it qualifies the player for progressive awards or bonuses. In Englman a game played reduces your number of winning opportunities, but in Taylor it simply doesn't. In fact you want more games played under Taylor, which <u>increment</u> on a *spins* or *session spins* meter, and losers qualify just fine -- definitely not so in Englman (or Slomiany)!

See Taylor paras 0039 - 0041, 0074, 0078 - 0079, 0084, 0086, and 0088 supra.

In the office action pg. 3, line 5, Examiner writes *"... thus guaranteeing a variable period of play."* Applicant respectfully disagrees. A "series of plays" does not comprise a "variable number of plays." If a player buys a series of 5 games and gets to play 5 games, there is nothing variable about it. Englman never guarantees a variable period of play. He never uses either word variable or variability in his entire application. Englman's invention is directed towards an accumulation feature over a fixed number of plays.

In the office action, pg. 3, line 18, Examiner refers to one aspect of *Applicant's invention (par. 0086)* wherein termination symbols may be reel symbols, then goes on to view this as *"a basic operation of a gaming machine."* Applicant respectfully disagrees with this view, because:

(1) Applicant's invention is not a basic operation of a gaming machine. It is not fair to take Applicant's own words from his para. 0086, *"game termination symbols may be reel symbols"* and cite them against Applicant (or to attribute them to Englman). The very need to combine Applicant's teachings with others for the purpose of refuting Applicant, only proves that Applicant's teachings are important, necessary and new.

(2) Reel symbols may be basic operations of a gaming machine, but termination events as taught by Applicant most certainly are not. Further a simple play of a gaming device or loss cannot be construed as a termination event, which is not only contrary to Applicant's teaching, but also inapplicable, because in most embodiments there is no games remaining meter or number of purchased plays to relate it to in Applicant's invention. Applicant's method is different.

(3) It has now been years since Applicant invented this. Hindsight is 20-20. What is obvious now was not obvious then. Applicant's methods and claims are strengthened and validated, since the gaming art has moved towards Applicant's methods.

(4) In the same paragraph **on pg. 3, lines 19-21**, Examiner thought it important to add at end *"based [on] a symbol combination",* but these are not Englman's words, not Englman's teaching and this phrase is not anywhere in Englman's specification. Referring now to *"a predetermined number of plays that counts down,"* symbol combinations aren't relevant in Englman. Symbol combinations are

basic to slot machines, but not with respect to Englman's count down events. An example of Englman's accumulation-type game may help.

In Englman for a $10 wager you buy a fixed series of 10 plays. If you accumulate 5 or more FARMER HEAD symbols during the series, you get a bonus. Symbols have nothing to do with the series count down. Englman lacks any means or teaching to affect the *games remaining* meter count with reel symbols. It simply decrements 10-9-8-7... and so on counting each of the fixed and predetermined number of plays.

In the office action page 4, line 3, free spins are mentioned. But Englman's free spins only come from a separate game, not a base game, and only then from an occasional, never-guaranteed playing of a simulation of a board game and not from a slot machine reel game.

In the office action page 4, lines 6-11, a case is made for a bonus outcome not being a terminator or extender and not counting against the number of games remaining. This also serves to support Applicant that bonuses are separate games and not base games. This is further substantiated below.

Englman describes bonus games with peculiarity. His bonus games are different games. Englman states, *"the machine shifts operation from the basic game to the bonus game."* Indirectly, and only during one specific and separate bonus game event can free plays of the basic slot game be won. But Englman teaches several conditions must be met first: (a) a bonus game must be won first, (b) that bonus game must be one of several possibilities, namely the Trail Bonus, (c) in said bonus, which is played like a board game, the player must land on a space that triggers free spins [paras 0049, 0052]. Moving along spaces is typically an aspect of board games, not slot machines. His bonus games are

clearly different games, even more distinctly separate playing like a board game, that teach away from the present invention.

Free plays are not the same as Applicant's means of extending play and Applicant makes no claims to them, which are well known in the art.

A. By definition free spins only *increase* the number of games. Applicant may also terminate and reduce. In some embodiments Applicant may have a plurality of terminators during a single play [Taylor para 0074], and <u>Englman can never do this</u>. It is impossible under any stretch of the imagination.

B. Playing one of a fixed number of plays in a pre-purchased series of games is not at all the same as getting a termination symbol. Applicant's termination symbols take lives away, not games remaining. That view would teach away from Applicant's invention and its variable aspects.

C. There is no assurance of a variable length game in Englman. There you buy a fixed number of plays that are only possibly increased by playing a separate game and winning free spins. Conversely Applicant begins with an unknown number of plays in a session that is extended and/or shortened directly in response to symbols in the base game. This is inherent in <u>each and every session</u> (not so under Englman).

D. Applicant provides for rewards when achieving a certain number of plays in a session [Taylor para 0088]. Englman does not. (Perhaps the semantics between Englman's "*series* [of fixed plays]" and Applicant's "*session* [of variable play]" is also telling.)

E. Bonuses are not base games. Second screen bonuses are common, but different. When Englman writes, *"the machine shifts operation from the basic game to the bonus game"* he describes a different game. Applicant does not require nor predispose a bonus game at all. In practice players tire of bonus games quickly and operators don't like them, because they slow things down. Applicant overcomes this problem with a means of variable length session play gaming inherent in a base game which does not need a bonus game.

F. In Englman a base game play <u>always</u> counts against the player. A base game play decrements the *games remaining* meter each and every time, and <u>there are no exceptions</u>. However, in most Taylor embodiments there is no *games remaining* meter! Nor is one needed or desired. It wouldn't make any sense. Unless the player gets a terminator or an extender, there is no reduction in games remaining at all. In Taylor you have LIVES remaining, not games remaining. Lives are unaffected by the number of base game plays unless a termination or extension event occurs. (Taylor para 0074 supra.)

G. Further in Applicant's method base game plays may win credits or not without counting against the player in any way. A player may win or not during any play, but any such play racks UP the games played meter! <u>This is the opposite of Englman</u>. What counts <u>against</u> you under Englman benefits you under Taylor, because rewards such as progressive jackpots may be provided for obtaining a certain number of plays. (Taylor para. 0088) Applicant confers a benefit, while Englman delivers a detriment. Englman teaches far away from Taylor.

Regarding claim 14 (**office action page 14, lines 14-16**), this language is Applicant's, not Englman's.

Regarding the remaining claims cited but not addressed individually (7, 15, 18, 19, 31 and 32), Applicant believes the key elements are already addressed above in Applicant's favor.

Response to Detailed Action ~103 Rejections

With respect to claims 5, 6, 8, 9, 10 and 20 Applicant acknowledges in good faith that while certain themes are helpful to understanding and adoption, and also that their variable nature lends to the manners of play envisioned by the present invention, specific themes are of lesser importance overall. The invention works with many themes. The advantage with claims 5 and 6 is that using these themes presents the game method in a manner more easily grasped by novices. That is, with the ship theme torpedoes are typically bad and coast guard ships, good. The baseball theme is possibly better because everyone knows that 3 strikes you're out! Claim 9 shows what might be done with other forms of the present invention. Football lends itself to an embodiment, because of the nature of the game itself. That is, extensions can relate to first downs and ultimately scores, while terminations to sacks, turnovers and losses. The number of scoring opportunities is also variable in each by their nature. If you've even set your DVR to record a game scheduled for 3 hours only to return home and find you missed the game-winning field goal at 3:05, you can relate.

Response to Arguments

In the office action page 7, lines 17-20, Applicant points out that since bonus games do not count against (decrement) Englman's *games remaining* meter this is yet another reason they are established, recognized and defined as separate events and not base games.

In spite of the persuasiveness of previous arguments, Applicant's invention stands alone in the specification and is nevertheless patentably new and different. It makes for starkly contrasting games compared to those cited by Examiner. This is well supported above (see A through G), and especially by the situations impossible under Englman and where the cited art clearly and definitively teaches away from Applicant.

Conclusion

With respect to claims 1-3, 14-16, 18-19, 21, and 27-32 Applicant believes the objections and prior art citations are clearly overcome as explained in items A through G.

Since Englman is obviated the remaining claims are allowable as well.

To recap selected elements, Englman does not use the word "variable" throughout his entire application. Not one time. Clearly Englman did not consider variable session length important to his application. Free plays are commonplace and Englman's are incidental, he didn't invent them, he doesn't claim them and being won, they are simply comparable to a number of credits that are rewagered. Englman's free plays may only be won after a set of specific steps that while possible, are not assured. They are only possible during a certain separate bonus, and only then during a special segment that simulates a board game.

Applicant does not have or need a *games remaining* meter. In spite of extrapolations, suppositions, combinations and views put forth, the games taught by Taylor and Englman are quite different. Applicant feels this is made clear herein, but to be sure Applicant requests an interview to demonstrate the present invention in person.

If Examiner feels Englman and Taylor reach the same end, and Applicant does not concede this, clearly the methods are materially different. You can fly, drive or take a bus to Boston, but the steps in each are very different, even if you end up in the same place. In gaming devices that place is commonly a win, loss or breakeven outcome. Still, it's all about how you get there that matters. Otherwise everything has already been invented. This "how" is important to customers (gaming device operators or players) and options are beneficial in their own right depending on their situation. (The bus saves money, the flight is faster, the drive is more convenient.) Applicant's "how", the means, methods and steps, are truly unique and present a host of characteristics, advantages and options not found elsewhere, most of which are well described in the present Application. As the title of this invention suggests it's about a new method.

In Englman base game symbols cannot dictate termination events. Rather, this is part of Applicant's invention. In Taylor, losing combinations are not termination events in most embodiments. That is, unlike Englman, or Slomiany for that matter, if Taylor used a *games remaining* count down meter (which makes no sense, being opposed to Taylor's variable and uncertain number of plays) it would be unchanged on either a common winner or loser. In most embodiments neither winning nor losing combinations affect the number of remaining plays whatsoever, because neither are extension or termination events. Quite the contrary Applicant teaches the opposite is true. <u>Players are rewarded for a higher number of plays</u>, and Applicant's *session spins* meter increments, but never decrements, accordingly. Applicant doesn't need a *games remaining* (count down) meter.

Finally, Applicant knows there is patentable material in his application, but prefers to avoid the appeal process. The United States Patent Office provides for certain assistance to pro se applicants in its Manual of Examination Procedure, presumably in exchange for their creativity, contributions to the art,

diligence and filing fees. Accordingly as a pro se inventor, and if necessary, Applicants requests help with claims writing pursuant to the Manual of Patent Examining Procedure, Section 7.07.07(j) which states:

When, during the examination of a pro se case, it becomes apparent to the examiner that there is patentable subject matter disclosed in the application [the examiner] shall draft one or more claims for the applicant and indicate in office action that such claims would be allowed if incorporated in the application by amendment.

Very respectfully,

/William A. Taylor/

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Applicant Pro Se

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